REMARKS

These remarks are set forth in response to the Non-Final Office Action. As this amendment has been timely filed within the three-month shortened statutory period, neither an extension of time nor a fee is required. At the time of the First Office Action, Claims 1 through 18 were pending and rejected in this application. Claims 1, 5 and 12 are independent. As an initial matter, the specification is amended to correct typographical errors in paragraphs [0020], [0024], [0027] and [0028]. No new matter has been added. In the Non-Final Office Action, claims 1-4 have been rejected under 35 U.S.C. § 112, second paragraph.

Additionally, claims 1-18 have been rejected on cited art. Specifically, claims 1-18 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,096,498 by Judge (Judge). In response, Applicants cancel claims 2-4, 6-8 and 13-15 without prejudice and without waiver of subject matter. Applicants respectfully traverse the Examiner's rejections under 35 U.S.C. §§ 102(e) and 112, second paragraph.

CLAIMS 1-4 HAVE BEEN REJECTED UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

On page 2 of the Non-Final Office Action, the Examiner asserted that the claimed invention, as recited in claims 1-4, are indefinite for claiming a "cooperative spam control processor comprises programming". This rejection is respectfully traversed. As is well known in the art, processors have registers and these registers can have program code, i.e., "programming" for performing one or more functions. As noted in MPEP § 2173.02,

> In reviewing a claim for compliance with 35 U.S.C. 112, second paragraph, the examiner must consider the claim as a whole to determine whether the claim

apprises one of ordinary skill in the art of its scope and, therefore, serves the notice function required by 35 U.S.C. 112, second paragraph, by providing clear warning to others as to what constitutes infringement of the patent. See, e.g., *Solomon v. Kimberly-Clark Corp.*, 216 F.3d 1372, 1379, 55 USPQ2d 1279, 1283 (Fed. Cir. 2000).

CLAIMS 1-18 ARE REJECTED UNDER 35 U.S.C. § 102(E) AS BEING ANTICIPATED BY U.S. PATENT NO. 7,096,498 TO JUDGE (HEREINAFTER JUDGE)

On pages 2-3 of the First Office Action, the Examiner asserted that Judge discloses the invention corresponding to that claimed in Claims 1-18. This rejection is respectfully traversed.

The factual determination of anticipation under 35 U.S.C. § 102 requires the identical disclosure, either explicitly or inherently, of each element of a claimed invention in a single reference[1]. Moreover, the anticipating prior art reference must describe the recited invention with sufficient clarity and detail to establish that the claimed limitations existed in the prior art and that such existence would be recognized by one having ordinary skill in the art[2]. As part of this analysis, the Examiner must (a) identify the elements of the claims, (b) determine the meaning of the elements in light of the specification and prosecution history, and (c) identify corresponding elements disclosed in the allegedly anticipating reference.[3] This burden has not been met.

Claim 1

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[1] In re Rijckaert, 9 F.3d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993); Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); Perkin-Elmer Corp. v. Computervision Corp., 732 F.2d 888, 894, 221 USPQ 669, 673 (Fed. Cir. 1984).

[2] See In re Spada, 911 F.2d 705, 708, 15 USPQ 1655, 1657 (Fed. Cir. 1990); Diversitech Corp. v. Century Steps, Inc., 850 F.2d 675, 678, 7 USPQ2d 1315, 1317 (Fed. Cir. 1988).

[3] Lindermann Maschinenfabrik GMBH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984)

At the outset, Applicants note that amendments have been made to Claims 1, 7 and 8.

Amended independent Claim 1 recites the following:

> A cooperative spam processing system comprising:
> a plurality of e-mail clients communicatively linked to one another; ~~and,~~
> a plurality of cooperative spam control processors, each of said processor coupled to a corresponding one of said e-mail clients, wherein said cooperative spam control processors comprises programming for detecting spam and for notifying others of said cooperative spam control processors of said spam; and,
> a group administrator for said e-mail clients, said group administrator having authority to establish an agreement to exchange spam notifications with other groups of e-mail clients having respective cooperative spam control processors.

On page 3 of the First Office Action, the Examiner relied upon col. 19, lines 13-16 to teach the limitations of Claim 1. Several of the passages are reproduced here for convenience.

> As a non-limiting example, natural language output can be used to explain to an administrator or user how to configure the system with the suggested rules and policies.

As claimed, the cooperative spam processing system includes "group administrator having authority to establish an agreement to exchange spam notifications with other groups of e-mail clients having respective cooperative spam control processors." The cited passages of fail to teach or suggest a cooperative spam processing system including group administrator having authority to establish an agreement to exchange spam notifications with other groups of e-mail clients having respective cooperative spam control processors ordered good or service".

Claims 2-6, and 8-13

Claims 5, 9-12 and 16-18 all recite the limitations of:

> ignoring said notification if said rules indicate that notifications from said peer e-mail recipient are to be ignored; and,
> overriding said notification where said e-mail message meets criteria established in said policy for overriding a spam notification.

Accordingly, for at least the reasons discussed with respect to amended Claim 1, Claims 9-12 and 16-18 are patentable over Judge, and allowance is respectfully requested.

For the above reasons, the Applicant respectfully requests the withdrawal of the rejections under 35 U.S.C. §§ 102(e) and 112, paragraph 2. This entire application is now believed to be in condition for allowance and such action is respectfully requested. The Applicants request that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

Date: June 12, 2008

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